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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/096,611	06/12/98	JOHNSON	L PMS225528
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QM31/0519

EXAMINER

WILLSE, D

ART UNIT

PAPER NUMBER

3738

DATE MAILED: 05/19/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/096,611

Applicant(s)
JOHNSON

Examiner
Dave Willse

Group Art Unit
3738



☒ Responsive to communication(s) filed on Jun 12, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-12 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-12 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on June 12, 1998, is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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The drawings are objected to because Figures 1-4 should be labeled as "PRIOR ART".

Applicant is required to submit a proposed drawing correction in reply to this Office action.

However, formal correction of the noted defect(s) can be deferred until the application is allowed by the examiner.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Koeneman et al., US 4,750,905.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Imhof, EP 0 528 284 A1.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imhof, EP 0 528 284 A1. Biocompatible metals and biodegradable materials and commonly used in the art

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and would have been obvious from their respective advantages, such as relatively high strength in the case of metals and osseointegration in the case of bioresorbable materials.

Claims 1, 4, 7, and 10 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Draenert, WO 94/08534.

Claims 2, 3, 5, 6, 8, 9, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Draenert, WO 94/08534. The particular materials would have been obvious for reasons cited above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dave Willse, whose telephone number is (703) 308-2903. The supervisory patent examiner is Mickey Yu, whose telephone number is (703) 308-2672. The receptionist's phone number is (703) 308-0858, and the main FAX numbers are (703) 305-3591, 3590.

dhw: D. Willse
May 13, 1999


DAVE WILLSE
PRIMARY EXAMINER
ART UNIT 3738